

Senate File 292 - Introduced

SENATE FILE 292
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 165)

A BILL FOR

1 An Act relating to scheduled violations that require a court
2 appearance.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 805.10, Code 2011, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3. *a.* In cases requiring a court
4 appearance pursuant to subsection 1, if a peace officer fails
5 to endorse "court appearance required" on an information or
6 uniform citation and complaint, and the defendant admits to the
7 violation under the procedures established in section 805.9
8 without a court appearance as required by this section, the
9 conviction shall be set aside as a matter of law if the county
10 attorney files an objection to the conviction within sixty days
11 of the conviction.

12 *b.* If the conviction is set aside, the defendant shall
13 appear before the court and regular procedures shall apply as
14 in other scheduled violation cases requiring a court appearance
15 under this section.

16 *c.* Any fine, court costs, surcharge, or other penalties
17 previously paid by the defendant, including an unsecured
18 appearance bond, may be refunded to the defendant or upon
19 conviction applied to the newly assessed fine, court costs,
20 surcharge, or other penalty.

21 *d.* If the defendant admits to the violation by paying
22 the fine and other charges due for a citation, complaint,
23 or information, and the conviction is set aside pursuant to
24 this subsection, the admission shall not be used against the
25 defendant in any subsequent proceedings arising out of the same
26 set of facts and circumstances as the conviction that has been
27 set aside.

28 Sec. 2. Section 811.9, Code 2011, is amended to read as
29 follows:

30 **811.9 Forfeiture of appearance bond and conditions to set**
31 **aside.**

32 Sections 811.6 through 811.8 shall not apply in a case where
33 a simple misdemeanor is charged upon a uniform citation and
34 complaint and where the defendant has submitted an unsecured
35 appearance bond or has submitted bail in the form of cash,

1 check, credit card as provided in section 805.14, or guaranteed
 2 arrest bond certificate as defined in section 321.1. When a
 3 defendant fails to appear as required in such cases, the court,
 4 or the clerk of the district court, shall enter a judgment of
 5 forfeiture of the bond or bail. The judgment shall be final
 6 upon entry and shall not be set aside unless the conviction
 7 is for a scheduled violation under chapter 321 that was set
 8 aside under the procedures established in section 321.200A,
 9 ~~or~~ upon a showing of good cause after the filing of a motion
 10 within ninety days of entry of the judgment, for mistake,
 11 inadvertence, surprise, excusable neglect, or unavoidable
 12 casualty, or if the county attorney objects pursuant to the
 13 procedures established in section 805.10, subsection 3.

EXPLANATION

15 This bill relates to scheduled violations that require a
 16 court appearance.

17 The bill provides that for scheduled violations requiring
 18 a court appearance where the peace officer fails to endorse
 19 "court appearance required" on the information or uniform
 20 citation and complaint, and the defendant later admits to the
 21 violation without a court appearance under the procedures
 22 established in Code section 805.9, the conviction shall be
 23 set aside as a matter of law if the county attorney files an
 24 objection to the conviction within 60 days of the conviction.

25 If a conviction is set aside under the bill, the defendant
 26 shall appear before the court and regular procedures shall
 27 apply as in other scheduled violation cases that require a
 28 court appearance under Code section 805.10.

29 The bill provides that any fine, court costs, surcharge, or
 30 other penalty previously paid by the defendant, including an
 31 unsecured appearance bond, may be refunded to the defendant or
 32 upon subsequent conviction applied to the newly assessed fine,
 33 court costs, surcharge, or other penalty.

34 If the defendant admits to the violation by paying the
 35 citation, complaint, or information, and the conviction is set

1 aside pursuant to the bill, the admission shall not be used
2 against the defendant in any subsequent proceedings arising out
3 of the same set of facts and circumstances as the conviction
4 that has been set aside.